

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2008-031021-001 DT

12/15/2015

HON. SAM J. MYERS

CLERK OF THE COURT
S. LaMarsh
Deputy

STATE OF ARIZONA

PAUL WILLIAM AHLER
DONALD E CONRAD

v.

JODI ANN ARIAS (001)

MARGARET M GREEN
CORY ENGLE

VICTIM WITNESS DIV-AG-CCC

MINUTE ENTRY

The Court has received Defendant Jodi Arias' Motion to Strike filed October 26, 2015; the State's Response filed November 6, 2015; and Defendant's Reply filed November 10, 2015. Oral argument was not requested.

The Court notes that Defendant filed a Motion to Enforce Protective Order with the Arizona Court of Appeals on October 26, 2015. According to the website entry dated December 3, 2015, the Court of Appeals denied the motion. Because Defendant has raised the argument that the Superior Court lacks jurisdiction to enter an order unsealing a minute entry, this Court waited to address the instant motion in an abundance of caution. This Court will treat the Court of Appeals' ruling as a rejection of that argument.

The Court agrees with Defendant that this matter was not identified on its face as having been filed ex parte. However, given the substance of the request and the representations made by counsel, the Court declined to "exalt form over substance" and require that the pleading be amended to include the words "ex parte." See "exalt form over substance" language in *Mazen v. Seidel*, 189 Ariz. 195, 200, 940 P.2d 923, 928 (1997) ("It would, we think, exalt form over substance to hold that when other government agents have legally entered the premises, with power and responsibility to remove and handle property, police could not also enter while the

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first agents were still engaged in their work and seize what was in plain view and plainly contraband.”); State v. Ott, 167 Ariz. 420, 428, 808 P.2d 305, 313 (Ct. App. 1990) (“To find, as the state would have us do, that Ott should have written the word “deny” below each of the 21 requests would exalt form over substance.”). Rather, the Court considered whether the matter was appropriate for ex parte consideration. The Court may initiate, permit or consider ex parte communications only when expressly authorized by law. Ariz.Sup.Ct.Rule 81; Code of Judicial Conduct, Rule 2.9(A) (5); State v. Apelt, 176 Ariz. 349, 365, 861 P.3d 634, 650 (1993). Given the issue involved and the nature of the relief sought, the Court finds the request to be appropriately considered by the Court ex parte.

No good cause appearing,

IT IS ORDERED denying Defendant’s Motion to Strike.